

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

MICHAEL ANTHONY PENA, §
§
Petitioner, §
§
v. § 2:18-CV-172-M
§
DIRECTOR, §
Texas Department of Criminal Justice, §
Correctional Institutions Division, §
§
Respondent. §

ORDER ACCEPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION
and DENYING CERTIFICATE OF APPEALABILITY

The United States Magistrate Judge entered Findings, Conclusions and Recommendation in this case, to which no objections have been filed. The undersigned United States Chief District Judge has reviewed the Findings, Conclusions and Recommendation for plain error. Finding none, the undersigned Chief District Judge ACCEPTS the Findings, Conclusions and Recommendation of the Magistrate Judge.

Considering the record in this case, the Court DENIES a certificate of appealability. The Court accepts and incorporates by reference the Magistrate Judge's Findings, Conclusions and Recommendation filed in this case in support of its finding that petitioner has failed to show (1) that reasonable jurists would find this Court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its procedural ruling." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

In the event petitioner files a notice of appeal in this case:

- () petitioner will proceed *in forma pauperis* on appeal.
- (X) petitioner will need to pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED this 10th day of September, 2021.



BARBARA M. G. LYNN
CHIEF JUDGE